

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FREDERICK WILLIAMS,

Petitioner,

v.

TUOLUMNE COUNTY COURT,

Respondent.

No. 1:20-cv-00082-NONE-SAB-HC

ORDER ADOPTING FINDINGS AND
RECOMMENDATION, DISMISSING
PETITION FOR WRIT OF HABEAS
CORPUS, DIRECTING CLERK OF COURT
TO ASSIGN DISTRICT JUDGE AND CLOSE
CASE, AND DECLINING TO ISSUE
CERTIFICATE OF APPEALABILITY

(Doc. No. 9)

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 30, 2020, the assigned magistrate judge issued findings and recommendations recommending that the pending petition, reasoning that petitioner's claim that his current state sentence violates California's sentencing laws fails to state a cognizable federal habeas claim. (Doc. No. 9.) The findings and recommendations were served on petitioner and contained notice that any objections were to be filed within thirty (30) days of the date of service of the findings and recommendations. To date, petitioner has filed no objections, and the time for doing so has passed.¹

¹ In lieu of filing objections, petitioner filed a motion to transfer the petition (Doc. No. 13), which was denied on February 19, 2020. (Doc. No. 14.) Petitioner then filed a notice of appeal of that order. (Doc. No. 15.) On March 26, 2020, the Ninth Circuit dismissed the notice of appeal for lack of jurisdiction. (Doc. No. 18.) The mandate issued April 17, 2020. (Doc. No. 19.)

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the court holds the findings
3 and recommendations to be supported by the record and proper analysis.

4 Having found that petitioner is not entitled to habeas relief, the court now turns to whether
5 a certificate of appealability should issue. A petitioner seeking a writ of habeas corpus has no
6 absolute entitlement to appeal a district court's denial of his petition, and an appeal is only
7 allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); 28 U.S.C.
8 § 2253. The court should issue a certificate of appealability if "reasonable jurists could debate
9 whether (or, for that matter, agree that) the petition should have been resolved in a different
10 manner or that the issues presented were 'adequate to deserve encouragement to proceed
11 further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S.
12 880, 893 & n.4 (1983)).

13 In the present case, the court finds that reasonable jurists would not find the court's
14 determination that the petition should be dismissed debatable or wrong, or that petitioner should
15 be allowed to proceed further. Therefore, the court declines to issue a certificate of appealability.

16 Accordingly:

- 17 1. The findings and recommendations issued on January 30, 2020 (Doc. No. 9) are
18 adopted;
- 19 2. The petition for writ of habeas corpus is dismissed;
- 20 3. The Clerk of Court is directed to assign a district judge to this case for the purpose of
21 closing the case and then to close the case; and
- 22 4. The court declines to issue a certificate of appealability.

23 IT IS SO ORDERED.

24 Dated: April 21, 2020

25 
UNITED STATES DISTRICT JUDGE